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PATENT

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Mail Stop Appeal Brief - Patents

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Alexandria, VA 22313-1450

By: Kevin L. McNeill

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of:

Joseph J. Knudsen, et al.

Application No.: 09/649,864

Filed: August 28, 2000

For: METHOD AND SYSTEM FOR
VERIFYING MODEM STATUS

Customer No. 20350

Examiner: Chad Zhong

Technology Center/Art Unit: 2154

APPELLANT BRIEF UNDER 37 CFR
§41.37

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

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Sir:

Appellants offer this Brief further to the Notice of Appeal mailed on
September 17, 2004.

11/09/2004 AWONDAF1 00000120 201430 09649864

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1. Real Parties in Interest

Qwest Communications International Corporation is the real party in interest as the assignee of the above-identified application.

2. Related Appeals and Interferences

No other appeals or interferences are known that will directly affect, are directly affected by, or have a bearing on the Board decision in this appeal.

3. Status of Claims

Claims 1 – 20 are currently pending in the application. All pending claims stand finally rejected pursuant to a Final Office Action mailed May 18, 2004. The rejections of claims 1 – 20 are believed to be improper and are the subject of this appeal.

4. Status of Amendments

No amendments have been filed subsequent to the Final Office Action of May 18, 2004.

5. Summary of Claimed Subject Matter

Systems and methods are disclosed for verifying modem status for a telecommunications service provider. In the embodiment of claim 1, the system includes an internet interface for receiving a modem status request from a telecommunications service provider. Application, p. 7, last paragraph, ll. 5-7; p. 5, last paragraph, ll. 2-3. By way of example, in the embodiment of dependent claim 2, the internet interface is a web server having an internet web site 18 containing a list of telecommunications service provider customers. Id., p. 8, ll. 13-16; Figure 3.

The system also includes an integrator 24 for retrieving subscriber information. Id., p. 9, ll. 2-4; Figure 1. A server is connected to the internet interface. Id., p. 8, ll. 1-2. The

server receives the modem status request and transmits the modem status request to the integrator. Id., p. 8, ll. 25-26; p. 8, l. 29 to p. 9, l. 1. The integrator retrieves corresponding subscriber information. Id., p. 9, ll. 2-4. The server converts the subscriber information to a central office request. Id., p. 9, ll. 10-11. The server sends the central office request to the central office. Id., p. 9, ll. 13-14. As an example, in the embodiment of dependent claim 6, the server converts the subscriber information to a Simple Network Management Protocol (SNMP) request and transmits the request to the corresponding Digital Subscriber Line Access Multiplexer (DSLAM) at the central office. Id., p. 8, ll. 11-12. The server transmits a status signal from the central office transmitted to the server in response to the request to the internet interface. Id., p. 9, ll. 18-20. The internet interface converts the status signal to a readable format. Id., p. 9, ll. 22-24.

In the embodiment of claim 11, a system for verifying modem status for an internet service provider comprises a web server having an internet website interface for receiving a modem status request from an internet service provider via the internet. Id., p. 7, last paragraph, ll. 5-7. Claim 11 also recites an integrator similar to claim 1. The system further includes a status server to receive the modem status request and transmit the request to the integrator. Id., p. 8, ll. 25-26; p. 8, l. 29 to p. 9, l. 1. The status server also converts corresponding subscriber information to a central office DSLAM request and sends the DSLAM request to the central office DSLAM. Id., p. 9, ll. 10-24. The status server converts the signal transmitted from the central office in response to the request to a readable format for viewing by the internet service provider. Id., p. 9, ll. 18-20.

In the embodiment of independent claim 12, a method for verifying modem status for a telecommunications service provider is disclosed. The method comprises connecting to an internet interface. Id., p. 8, ll. 13-14. A modem status request is transmitting from the telecommunications service provider to the internet interface. Id., p. 8, ll. 22-24. The modem status request is transmitted from the internet interface to a server. Id., p. 8, ll. 25-26. The modem status request is transmitted from the server to an integrator, which interprets the modem status request and retrieves corresponding subscriber information. Id., p. 8, l. 29 to p. 9, l. 4.

The corresponding subscriber information is transmitted to the server. Id., p. 9, ll. 7-9. The corresponding subscriber information is converted at the server to a central office request and sent to the central office. Id., p. 9, ll. 10-11, 13-14. A modem status of a customer is queried from the central office and a status signal is created. Id., p. 9, ll. 14-15. The status signal is transmitted to the server and transmitted from the server to the internet interface. Id., p. 9, ll. 18-20. The status signal is converted to a readable format for the telecommunications service provider. Id., p. 9, ll. 22-24.

In the embodiment of claim 17, a method is disclosed for verifying modem status for an internet service provider. The method comprises connecting to a webserver having an internet website interface, transmitting the modem status request to the webserver via the internet website interface, transferring the modem status request from the webserver to a status server, and transmitting the modem status request from the status server to the integrator, which retrieves corresponding subscriber location information. Id., p. 8, l. 11 to p. 9, l. 4. The method further includes converting the subscriber location information to a central office DSLAM request and sending the DSLAM request to the central office. Id., p. 9, l. 10-14. The modem status of a customer is queried, a status signal is created and transmitted to the server, and the status signal is transmitted from the status server to the web server. Id., p. 9, l. 14-20. The status signal is converted at the web server to a website interface for communication to the internet service provider. Id., p. 9, ll. 22-24.

6. Grounds of Rejection Presented for Review

A. Claims 1-5, 7, 9, 10, and 19 stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by U.S. Patent Application No. 2002/0004798 to Babula et al. (hereinafter "Babula") in view of U.S. Patent No. 6,529,743 to Thompson et al. (hereinafter "Thompson").

B. Claims 6, 8, 11-18, and 20 stand rejected under 35 U.S.C. § 103(a) as being rendered obvious by Babula in view of Thompson and further in view of U.S. Patent No. 6,580,727 to Yim et al. (hereinafter "Yim").

7. Argument

A. Whether claims 1-5, 7, 9, 10, and 19 are obvious over Babula in view of Thompson

Claims 1-5, 7, 9, 10, and 19 stand rejected under 35 U.S.C. § 103(a) as being obvious over Babula in view of Thompson. For this rejection to be proper, there must be a motivation to combine the references and the cited references must teach or suggest all of the recitations of these claims. Appellants respectfully submit that these claims are patentable as the rejection of these claims fails to meet either burden.

Claims 1, 7, 9, 10, 19

Independent claim 1 was rejected over the combination of Babula in view of Thompson. However, these references are not properly combinable. Babula discloses a technique for providing remote service to medical diagnostic system (e.g., MRI system, CT system, ultrasound image system). Babula, p. 3, ¶ 31, ll. 1-6. Thompson discloses systems and devices that convert analog modem signals to signals that can be transmitted on a wireless communications network. Thompson, col. 4, ll. 6-11. There is no hint or suggestion in either reference of a motivation to combine monitoring of medical devices with an invention to convert analog modem signals to wireless telephone signals.

Additionally, the cited references fail to teach or suggest all of the recitations of claim 1. Claim 1 recites "a system for verifying modem status for a telecommunications service provider." The system includes "an internet interface for receiving a modem status request." Neither reference even remotely suggests these recitations of claim 1.

As previously mentioned, Babula discloses a system for providing remote service to medical diagnostic systems. Babula, p. 3, ¶ 31, ll. 1-3. The medical devices are coupled to a centralized service facility. Id., p. 3, ¶ 31, ll. 10-11. The system also includes a modem for receiving and transmitting data between the medical diagnostic systems and the remote service facility. Id., p. 5, ¶ 45, ll. 8-10. A server may facilitate data exchanges between the diagnostic systems and may permit a series of web pages to be viewed via a web browser. Id., p. 5, ¶ 45, ll. 1-5.

Appellants cannot find any mention in Babula of an internet interface to receive a modem status request from a telecommunications service provider. In fact, Babula fails to even mention modem status requests. Appellants also cannot find any reference to a telecommunications provider anywhere in Babula.

Thompson also fails to teach or suggest these recitations. Thompson discloses a communication system which allows a host (e.g., personal computer) with an analog modem to communicate on a wireless telephone network. Thompson, col. 4, ll. 6-14. Nowhere in Thompson does Thompson disclose an internet interface to receive a modem status request from a telecommunications service provider.

Additional recitations of claim 1 are also not taught or suggested by either reference. For instance, claim 1 further recites a server for receiving the modem status request and sending the modem request to an integrator. Since neither reference teaches or suggests a modem status request, the references also fail to teach or suggest a server to receive the modem status request and to send the request to an integrator.

As another example, claim 1 further recites that the server converts corresponding subscriber information to a central office request. In the Final Office Action dated May 18, 2004, the Examiner equates database information, such as operating parameters and service histories, to the subscriber information of claim 1. See Final Office Action, p. 3, ll. 2-3 (citing to Babula, p. 4 ¶ 38, ll. 6-25). Assuming *arguendo*, that service histories can be properly equated to subscriber information, Babula fails to teach or suggest a server to convert this information to a central office request as recited by claim 1. Thompson also does not teach or suggest this recitation of claim 1.

As there is no motivation to combine the cited references and the references fail to teach all of the recitations of claim 1, the rejection of this claims under 35 U.S.C. 103(a) is improper. The rejections of claims 7, 9, 10, and 19, which depend from claim 1, are believed to be improper for at least the same reasons. Therefore, Appellant respectfully requests the rejections to these claims be reversed.

Claims 2-5

Claims 2-5 depend on claim 1. Hence, the rejections of these claims are believed to be improper for the reasons discussed above with reference to claim 1. Additionally, claim 2 recites the "internet interface is a web server having an internet web site resident therein containing a list of telecommunications service provider customers." Babula discloses that web pages are accessible from a diagnostic system screen. Babula, col. 7, ¶ 56. However, Babula does not teach or suggest that the web pages contain a list of telecommunications service provider customers. Thompson also fails to teach or suggest a web site containing a list of telecommunications service provider customers. Therefore, the rejections of claim 2 and its dependent claims 3-5 are improper.

B. Whether claims 6, 8, 11-18, and 20 are obvious over Babula in view of Thompson and further in view of Yim

Claims 6, 8, 11-18, and 20 stand rejected under 35 U.S.C. § 103(a) as being obvious over Babula in view of Thompson and further in view of Yim. Appellants respectfully submit the rejection of these claims is improper as there is no motivation to combine these references and the references fail to teach or suggest all of the recitations of these claims.

Claim 11

Independent claim 11 was rejected over the combination of Babula with Thompson and Yim. As previously discussed, with reference to claim 1, the combination of Babula with Thompson is improper. Yim does not add anything to motivate the combination of Babula with Thompson. Additionally, the combination of Yim with either Babula or Thompson is also improper. Yim discloses a Digital Line Subscriber Access Multiplexer (DSLAM) with an element management system for debugging, system management, and user control of the DSLAM. Yim, col. 2, ll. 55-61. There is no hint or suggestion in any of the references to motivate the combination of monitoring of medical devices (Babula), a system to convert analog modem signals to wireless telephone signals (Thompson), and a DSLAM (Yim).

Further, even if the combination was proper, the cited references still fail to teach or suggest all of the recitations of claim 11. Claim 11 recites "a web server having an internet

website interface for receiving a modem status request" from an internet service provider.

Claim 11 also recites a status server to receive the modem status request and to transmit the modem status request to an integrator. As discussed above with reference to claim 1, neither Babula nor Thompson teach any type of interface for receiving a modem status request. Also, as previously discussed, both references also fail to teach or suggest a status server to receive the modem status request and to transmit the modem status request integrator. Yim also fails to teach or suggest these recitations.

Additionally, claim 11 recites the status server converts the subscriber information to a central office DSLAM request and sends the DSLAM request to the central office DSLAM. Appellants previously discussed that Babula and Thompson do not even remotely suggest a server to convert subscriber information to a central office request, let alone the conversion of subscriber information to a DSLAM request. Neither is there any teaching or suggestion in Yim of a status server which converts subscriber information to a DSLAM request and sends the DSLAM request to the central office DSLAM. in Yim either.

As there is no motivation to combine the cited references and the references fail to teach or suggest all of the recitations of claim 11, Appellants respectfully submit the rejection of claim 11 is improper and requests the reversal of this rejection.

Claim 6

Claim 6 depends from claim 1 and is believed to be patentable for at least the same reasons. Additionally, as discussed with reference to claim 11, Appellants respectfully submit that the combination of Babula, Thompson, and Yim is improper. The references also fail to disclose a server to convert subscriber information to a DSLAM Simple Network Management Protocol (SNMP) request. Therefore, the rejection of this claim is also believed to be improper for these additional reasons.

Claim 8, 20

The rejection of these claims is believed to be improper for at least the same reasons as independent claim 1, from which these claims depend.

Claims 12-16

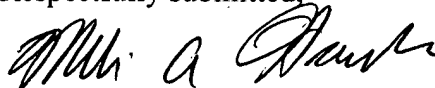
Claim 12 recites a method for verifying modem status. The method includes transmitting a modem status request from a telecommunications service provider to an internet interface. The method further includes transmitting the modem status request from the server to an integrator. Corresponding subscriber information is converted to a central office request and the central office request is sent to the central office. These recitations are similar to the system recitations discussed with reference to claim 1.

Appellants submit the rejection of this claim is improper as neither Babula, Thompson, or Yim disclose these recitations. Additionally, the rejection of this claim is improper as there is no motivation to combine these references (see discussion in claim 11). The rejection of claims 13-16, which depend from claim 11, is believed to be improper for at least the same reasons. Therefore, Appellants respectfully request these rejections be reversed.

Claims 17, 18

Claim 17 contains recitations similar to those discussed with reference to claim 12. Thus, the rejection of this claim, and its dependent claim 18 is believed to be improper for at least the same reasons. Additionally, none of the references teach or suggest converting subscriber location information to a DSLAM request as recited by claim 17. Therefore, Appellants respectfully request the rejection to claim 17, and its dependent claim 18, be reversed.

Respectfully submitted,



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APPENDIX

The claims pending in the application are as follows:

1. (Previously Presented) A system for verifying modem status for a telecommunications service provider in a broadband network serviced by a central office, the system comprising:

- an internet interface for receiving a modem status request from the telecommunications service provider via a telecommunications network;
- an integrator capable of retrieving subscriber information; and
- a server connected to said internet interface for receiving said modem status request and transmitting said modem status request to said integrator whereby said integrator interprets said modem status request and retrieves corresponding subscriber information and transmits said corresponding subscriber information to said server, said server thereby converting said corresponding subscriber information to a central office request and sending said central office request to said central office, said central office responding to said request and transmitting a status signal to said server and said server transmitting said signal to said internet interface which converts said status signal to a readable format for said telecommunications service provider.

2. (Original) The system of claim 1 wherein said internet interface is a web server having an internet web site resident therein containing a list of telecommunications service provider customers.

3. (Original) The system of claim 2 wherein said modem status request is a designation of a customer from said list of telecommunications service provider customers.

4. (Original) The system of claim 3 wherein said modem status request is a telecommunications service provider customer telephone number.

1 5. (Original) The system of claim 4 wherein said subscriber information is
2 customer node and port records.

1 6. (Previously Presented) The system of claim 1 wherein central office
2 includes a Digital Subscriber Line Access Multiplexer (DSLAM) and said central office request
3 is a Simple Network Management Protocol (SNMP) request corresponding to the DSLAM.

1 7. (Original) The system of claim 1 wherein said readable format for said
2 telecommunications service provider is a web site interface.

1 8. (Original) The system of claim 1 wherein said status signal includes a
2 status from a list of connected, not connected or connecting.

1 9. (Original) The system of claim 1 wherein said status signal is provided to
2 said telecommunications service provider in real-time.

1 10. (Original) The system of claim 1 wherein said server is capable of
2 receiving multiple status requests.

1 11. (Previously Presented) A system for verifying modem status for an
2 internet service provider in a digital broadband network serviced by a central office, the system
3 comprising:

4 a web server having an internet website interface for receiving a modem status
5 request from the internet service provider via the internet;

6 an integrator capable of retrieving subscriber location information;

7 a status server connected to said web server for receiving said modem status
8 request and transmitting said request to said integrator whereby said integrator interprets said
9 modem status request and retrieves corresponding subscriber location information and transmits
10 said corresponding subscriber information to said status server, said status server thereby
11 converts said corresponding subscriber information to a central office Digital Subscriber Line
12 Access Multiplexer (DSLAM) request and sends said central office DSLAM request to said
13 central office DSLAM, said central office DSLAM responds to said request and transmits said

14 signal to said webserver which converts said signal to a readable format on said internet website
15 interface for viewing by said internet service provider.

1 12. (Previously Presented) A method for verifying modem status for a
2 telecommunications service provider in a communications network serviced by a central office,
3 the method comprising:

4 connecting to an internet interface;

5 transmitting a modem status request from the telecommunications service
6 provider to the internet interface;

7 transferring said modem status request from the internet interface to a server;

8 transmitting said modem status request from said server to an integrator whereby
9 said integrator interprets said modem status request and retrieves corresponding subscriber
10 information;

11 transmitting said corresponding subscriber information to said server;

12 converting, at the server, said corresponding subscriber information to a central
13 office request;

14 sending said central office request to said central office;

15 querying, from the central office, a modem status of a customer and creating a
16 status signal;

17 transmitting said status signal to said server;

18 transmitting said status signal from said server to said internet interface; and

19 converting said status signal to a readable format for said telecommunications
20 service provider.

1 13. (Original) The method of claim 12 wherein connecting to said internet
2 interface further comprises connecting to a web server having an internet web site resident
3 therein containing a list of telecommunications service provider customers.

14. (Original) The method of claim 13 wherein transmitting said modem status request further comprises designating of a customer from said list of telecommunications service provider customers.

15. (Previously Presented) The method of claim 12 wherein converting said corresponding subscriber information to the central office request further comprises converting said corresponding subscriber information to a SNMP request corresponding to a DSLAM located at the central office.

16. (Previously Presented) The method of claim 12 wherein converting said status signal to the readable format for said telecommunications service provider further comprises converting the status signal to a web site interface screen indicating a status in real time.

17. (Previously Presented) A method for verifying modem status for an internet service provider in a digital broadband network serviced by a central office, the method comprising:

- connecting to a webserver having an internet website interface;
- transmitting a modem status request to the webserver via said internet website interface;

- transferring said modem status request from the webserver to a status server;
- transmitting said modem status request from said status server to an integrator whereby said integrator interprets said modem status request and retrieves corresponding subscriber location information;

- transmitting said corresponding subscriber location information to said status server;

- converting said corresponding subscriber location information to a central office Digital Subscriber Line Access Multiplexer (DSLAM) request;

- sending said central office DSLAM request to said central office;

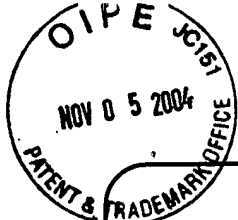
- querying modem status of a customer and creating a status signal;

transmitting said status signal to said server;
transmitting said status signal from said status server to said web server; and
converting said status signal at said web server to a website interface for
communication to said internet service provider.

18. (Original) The method of claim 17 wherein converting said status signal to a website interface for communication to telecommunications service provider further comprises converting the status signal to a web site interface screen indicating a status in real time for viewing via an internet connection.

19. (Previously Presented) The system of claim 1, wherein the telecommunications service provider is an Internet Service Provider (ISP).

20. (Previously Presented) The method of claim 12, wherein the telecommunications service provider is an Internet Service Provider (ISP).



PTO/SB/21 (04-04)

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Application Number	09/649,864
Filing Date	August 28, 2000
First Named Inventor	Joseph J. Kundsén
Art Unit	2154
Examiner Name	Chad Zhong
Attorney Docket Number	020366-073000US

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ENCLOSURES (Check all that apply)

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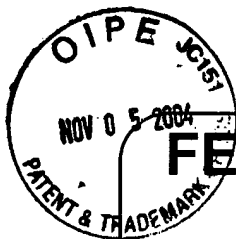
Firm or Individual name	Townsend and Townsend and Crew LLP Melissa A. Haapala	Reg. No. 47,622
Signature	<i>Melissa A. Haapala</i>	
Date	November 5, 2004	

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Signature	<i>Nina L. McNeill</i>	Date	November 5, 2004



FEE TRANSMITTAL for FY 2005

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 340

Complete if Known

Application Number	09/649,864
Filing Date	August 28, 2000
First Named Inventor	Joseph J. Knudsen
Examiner Name	Cha Zhong
Art Unit	2154
Attorney Docket No.	020366-073000US

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit
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The Director is authorized to: (check all that apply)

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FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from below		Fee Paid
	** =		X		=	
Independent Claims			X		=	
Multiple Dependent			X		=	

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	340
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid SUBTOTAL (3)

(\$)340

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Melissa A. Haapala	Registration No. (Attorney/Agent)	47,622	Telephone	(303) 571-4000
Signature				Date	November 5, 2004

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